

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ZULEIKA A. ROSARIO,

Plaintiff,

– *against* –

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

**ORDER**

23-cv-5826 (ER) (GRJ)

RAMOS, D.J.:

Zuleika A. Rosario brings this *pro se* action pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3), challenging the decision of the Commissioner of Social Security (the “Commissioner”) denying her application for disability insurance benefits. Doc. 1. On July 5, 2023, Plaintiff requested to proceed in forma pauperis (“IFP”), which the Court granted on July 18, 2023. Docs. 2, 6.

The case was referred to Magistrate Judge Sarah J. Cave on July 27, 2023. Doc. 7. On December 18, 2023, the Commissioner filed a brief in support of judgment on the pleadings and also served Plaintiff a copy of the brief. Docs. 16, 17. On January 10, 2024, Judge Cave ordered Plaintiff respond to the Commissioner’s brief by February 9, 2024, and warned her that failure to file a response would result in the Court resolving her claims based on the Commissioner’s brief alone. Doc. 18. The Commissioner served Plaintiff a copy of this order the next day. Doc. 19. Plaintiff did not respond to the Commissioner’s brief, and on February 26, 2024, Judge Cave entered an order deeming the matter fully briefed. Doc. 20.

On May 2, 2024 the case was reassigned to Magistrate Judge Gary R. Jones. Judge Jones issued a Report and Recommendation (“R&R”) on July 19, 2024, recommending that the Commissioner be granted judgment on the pleadings and that this case be dismissed. Doc. 22. Additionally, Judge Jones notified the parties that they had

fourteen days from service of the R&R to file written objections. *Id.* That period has passed, and no objection to the R&R has been filed.

### **I. STANDARD OF REVIEW**

A district court reviewing a magistrate judge's report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise specific written objections to the report and recommendation "[w]ithin fourteen days after being served with a copy." *Id.*; *see also* Fed. R. Civ. P. 72(b)(2).

A district court reviews de novo those portions of the report and recommendation to which timely and specific objections are made. 28 U.S.C. § 636(b)(1); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). The district court may adopt those parts of the report and recommendation to which no party has timely objected, provided no clear error is apparent from the face of the record. *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

### **II. DISCUSSION**

Although no objections were filed, the Court has reviewed Judge Jones' thorough and well-reasoned R&R and finds no error, clear or otherwise. The Court therefore adopts the R&R.

### **III. CONCLUSION**

For the reasons set forth above, the Commissioner's motion for judgment on the pleadings is GRANTED.

Furthermore, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith; therefore, IFP status is denied for purposes of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

The Clerk of Court is respectfully directed to close the case.

It is SO ORDERED.

Dated: August 26, 2024  
New York, New York

A handwritten signature in blue ink, appearing to read 'ER', is positioned above a horizontal line.

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EDGARDO RAMOS, U.S.D.J.